

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION – AKRON**

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|--------------------------------------|---|---|
| PAUL A. SABATINO, |) | CASE NO. 5:17-CV-1040 |
| |) | |
| Plaintiff, |) | JUDGE SARA LIOI |
| |) | |
| v. |) | |
| |) | |
| RBS CITIZENS FINANCIAL GROUP, |) | <u>REPORT ON PARTIES' PLANNING</u> |
| INC., d/b/a RBS CITIZENS BANK, N.A., |) | <u>MEETING UNDER FED. R. CIV. P.</u> |
| |) | <u>26(f) AND L.R. 16.3(b)</u> |
| |) | |
| Defendant. |) | |

1. Pursuant to FED. R. CIV. P. 26(f) and L.R. 16.3(b), a meeting was held on August 18, 2017 and was attended by the following parties:

- Brian D. Flick, Esq., counsel for Plaintiff Paul A. Sabatino (“Plaintiff”)
- Kathleen A. Nitschke, counsel for Defendant Citizens Bank, N.A., improperly identified as RBS Citizens Financial Group, Inc. (“Defendant”)

2. Lead Counsel for Plaintiff(s) is: Brian D. Flick, Esq.

Lead Counsel for Defendant is: Kathleen A. Nitschke, Esq.

3. The parties:

_____ have exchanged the pre-discovery disclosures required by Rule 26(a)(1).

XX Plaintiff exchanged the Rule 26(a)(1) disclosures on August 3rd, 2017. Defendant exchanged the disclosures on August 16th, 2017.

_____ have not been required to make initial disclosures.

4. The parties recommend the following track:

_____ Expedited XX Standard _____ Complex

_____ Administrative _____ Mass Tort

5. This case is suitable for one or more of the following Alternative Dispute Resolution (“ADR”) Mechanisms (**suitable tracks noted in bold**): (Early Neutral

Evaluation/**Mediation**/Arbitration/**Summary Jury Trial**/Summary Bench Trial/Case Not Suitable for ADR).

6. The parties **do not** consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. 636(c).

7. Briefly describe the subject of the litigation:

Plaintiff Paul A. Sabatino initiated this Complaint against Defendant Citizens Bank, N.A., improperly identified as RBS Citizens Financial Group, Inc. doing business at all times as RBS Citizens Bank, N.A. alleging that Defendant failed to substantially perform under the terms of an agreed cash for keys incentive package. Plaintiff is asserting the following claims: (1) Violation of RESPA for failure of Defendant to acknowledge receipt of a Notice of Error related to questions of the cash for keys package; (2) Violation of RESPA for failure of Defendant to properly investigate the Notice of Error and remit the \$3,000.00 incentive to the borrower; and (3) Breach of Contract for the failure to send the \$3,000.00 incentive. Defendant contests that Plaintiff is entitled to the relief sought as there was no contract as between the parties, a fact which was known to the Plaintiff prior to his issuance the Notices of Error and this litigation.

8. Recommended cut-off date for Amending the Pleadings and/or Adding Additional Parties: August 30th, 2017

9. Recommended Discovery Plan:

- a) Keeping in mind the proportionality requirements of Fed. R. Civ. P. 26(b)(1), describe the claims & defenses on which discovery is to be sought and the nature and extent of discovery

Plaintiff:

Plaintiff anticipates the need for discovery from the Defendant as to their servicing notes and policies surrounding both the cash-for-keys incentive offered to the Plaintiff as well as the Defendant's policies and procedures in responding to Notices of Error. The discovery will be both in the form of written discovery as well as the need to depose a corporate representative of the Defendant.

Defendant RBS Citizens Financial, Inc.

Defendant Citizens Bank, N.A., improperly identified as RBS Citizens Financial, Inc. anticipates that it will need to conduct written discovery and depose Plaintiff with regard to all of his claims and alleged damages. Defendant also anticipates conducting discovery, including deposition(s) of all other persons who are discovered to have knowledge of Plaintiff's claims and alleged damages.

b) Non-Expert Discovery Deadline: January 31, 2018

c) Electronic Discovery – The Parties (select one):

XX agree that there will be no discovery of electronically-stored information

_____ have agreed to a method of conducting discovery of electronically-stored information including the form of forms in which it should be produced; or

_____ have agreed to follow the default standard for discovery of electronically-stored information (Appendix K to N.D. Ohio Local Rules)

d) Expert report due date for party with burden of proof: December 31st, 2017

e) Rebuttal Expert Report due date: January 31st, 2018

f) Expert Discovery Cut-Off date: February 28th, 2018

10. Recommended Dispositive Motion Plan:

- a) Dispositive Motion Due Date: March 31st, 2018
- b) Opposition to Dispositive Motion Due Date: April 30th, 2018
- c) Replies in Support of Dispositive Motion Due Date: May 15th, 2018

11. Recommended Date for Status Hearing: December 31st, 2017

12. Recommended Date for a Final Pre-Trial Conference: May 31st, 2018

13. Recommended Trial Date: July 1st, 2018

14. Other matters for attention of the Court: None at this time.

Respectfully submitted,

/s/ Brian D. Flick (Per E-Mail Consent
08-25-17)

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/s/ Kathleen A. Nitschke.

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Counsel for Defendant Citizens Bank, N.A

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2017 a copy of the foregoing *Report of Parties' Planning Meeting* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system upon the following Parties:

Marc E. Dann, Brian D. Flick and Daniel M. Solar, on behalf of Plaintiff Paul A. Sabatino, at notices@dannlaw.com.

/s/ Kathleen A. Nitschke
Kathleen A. Nitschke (0073397)
Counsel for Defendant Citizens Bank, N.A.